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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1454th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 16 March 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Initial report of Georgia (continued) (CERD/C/369/Add.1)

1. At the invitation of the Chairman, the members of the delegation of Georgia resumed their places at the Committee table.

2. The CHAIRMAN invited the delegation of Georgia to respond to the questions asked by Committee members at the preceding meeting.

3. Ms. BERIDZE (Georgia) stressed that the region of Ajaria was an integral part of Georgia. Its population, for the most part Georgian, spoke Georgian; a majority were Muslim as a result of the long period of Ottoman domination. In March 2000, parliament had granted the region the status of an autonomous republic. With regard to the Tskhinvali region, she said that discussions involving the Organization for Security and Cooperation in Europe (OSCE) were under way. The situation regarding Abkhazia was somewhat more complicated; the international community had always supported the principle of respect for the territorial integrity and sovereignty of Georgia and held that attempts by Abkhaz separatists to justify their cause by organizing a referendum were unacceptable. Her Government was currently involved in negotiations to resolve that issue and she said that the Russian Federation might have an important role to play in that regard. Her Government was proposing that Abkhazia, which was currently an autonomous republic, should be given a federative status through an appropriate institutional framework rather than an international agreement. The Abkhaz separatists, however, rejected that proposal and were insisting on full sovereignty.

4. With regard to deportees, she recalled that in accordance with Soviet policy in the 1940s, entire populations, including many Georgians, had been deported, in particular to Siberia. Her Government had decided to create a juridical framework for their repatriation and for them to be granted citizenship, and a governmental commission had been created for that purpose. The commission's structure and mandate were based on a draft law prepared by a non-governmental organization, which would be examined with the assistance of experts from the Council of Europe and then adopted by parliament, probably in April 2001. The process would be wide-ranging and would allow for the return of hundreds of thousands of individuals and require an especially large financial effort on the part of the Government.

5. She acknowledged that there had been violations of the rights of religious associations and said that measures would be taken to prevent such deplorable practices. She pointed out that the Orthodox religion was not the State religion of Georgia; the Constitution simply mentioned the special role of that religion in the country. The Orthodox Church received no subsidies for the construction of places of worship or for the salaries of its employees; although it had enjoyed some tax benefits in 1995 and 1996, that was no longer the case. A debate was under way within Georgian society as a result of statements made by the patriarch of the Orthodox Church, who had called for a constitutional agreement between Church and State which would rank below the

Constitution but before international instruments in the domestic juridical order. Public opinion was very divided on that issue and an agreement would in any case require significant amendments to the Constitution.

6. Approximately 5.7 per cent of the population were ethnic Azerbaijanis, most of whom lived in their own communities in specific regions. They had major political responsibilities in those regions, where they were full fledged citizens but only had four representatives in parliament, because it was currently necessary to speak Georgian in order to be a deputy, whereas until very recently it had been sufficient to know Russian, a language of which most Azerbaijanis had an excellent command.

7. In response to questions relating to the situation of populations living in the mountainous regions, she said that various programmes were being implemented to promote education, crafts and small businesses, in particular, in those isolated regions.

8. In response to Mr. Valencia Rodriguez, she confirmed that some 30,000 persons - 90 per cent of them Georgian - had been driven from their homes in Abkhazia, in what could be considered to be a case of ethnic cleansing. She also noted that her Government was studying the possibility of increasing the representation of minorities in parliament and, while that issue had not yet been raised in parliament itself, the President of the Republic was in favour. A recommendation from the Committee in that regard would of course have a particularly important impact.

9. Legislation relating to the holding of demonstrations and the creation of associations was being duly applied. Demonstrations were frequent in Georgia and were often organized by political parties not represented in parliament. Regrettably, there were at times clashes between demonstrators and the security forces but, generally speaking, 95 per cent of demonstrations were perfectly peaceful. She noted that there had been cases where police officers had been found guilty of excessive use of force by the administrative tribunals.

10. Turning to the question of the status of the international instruments adopted by Georgia and its Constitution within the domestic legal system, she recalled that Georgia had adopted a large number of international human rights instruments in 1994, before the Constitution had been drafted. As a result, the provisions of those instruments had of course been taken into account in drafting the Constitution. Furthermore, in cases where the provisions of an international instrument adopted by Georgia were in conflict with the Constitution, article 102 of the Constitution provided for the possibility of a constitutional amendment to remedy that situation.

11. Freedom of speech was a fundamental right which was only restricted by the Constitution insofar as it was forbidden to express any opinions which might constitute an affront to human dignity.

12. Finally, she said that according to a 1998 census, there were 1,200 Roma living in the country, some 400 in Tbilisi and the others in Abkhazia. Although she had no information on the latter, those who lived in Tbilisi were no longer nomads and worked in the retail sector. They enjoyed the same rights as other Georgian citizens and their situation was not a source of concern.

13. Mr. NALBANDOV (Georgia) said that all duly ratified international legal instruments were directly applicable in Georgian domestic law. The International Convention on the Elimination of All Forms of Racial Discrimination had the status of a normative law and its provisions could therefore be invoked directly before the courts, although that had not occurred to date.

14. In response to a question from Mr. Fall, he said his Government had intended to introduce a law on the status of minorities but concerns had been raised with regard to the need for such a law. National minorities, for example, were not in favour because they felt that they were perfectly integrated into civil society and did not want to bring attention to themselves through a legal text. The parliamentary committee for civil integration was nevertheless still studying a series of draft laws which would deal with all minority-related issues. He acknowledged that there were no laws forbidding racist organizations or any provisions in the Criminal Code which punished racist propaganda, a situation which did seem to be in violation of the Convention. He noted, however, that to date there had been no complaints of violations of the rights of racial minorities or racial discrimination and no cases had been mentioned in the annual reports by the Ombudsman. In that context, he stressed that his Government's failure to make the declaration under article 14 of the Convention relating to recognition of the jurisdiction of the Committee to consider individual communications had probably been the result of an error of omission, since Georgia, which was a member of the Council of Europe, had recognized the competence of the European Court of Human Rights in that area.

15. In response to a question by Mr. Valencia Rodriguez, he said that the decision to ban a political party accused of making racist statements or inciting racial hatred fell within the jurisdiction of the Constitutional Court. There was no legal restriction on membership in non-political associations and the only restrictions which did exist had to do with forbidding Georgian citizens from forming political parties based on regional or territorial demands.

16. With regard to the possibility of being exempted from having to pay the costs of a criminal proceeding, he said that persons requiring assistance could make such a request but in practice were rarely successful because of the very large number of such requests. On the other hand, any one who could not afford the services of a lawyer of his choosing could receive assistance for that purpose upon request. With regard to civil proceedings for compensation, the law authorized any victim to initiate a parallel proceeding in conjunction with a criminal proceeding.

17. Turning to educational opportunities, he said that any resident of Georgia, whether a citizen or not, had access to education. Adults often had difficulties in the area of education and therefore non-governmental organizations (NGOs), as well as other, State-subsidized, associations, offered them special instruction. To date, no case of racial discrimination in the schools had been reported.

18. He acknowledged that Georgia had not yet made racist propaganda or incitement to racial hatred a criminal offence, but the parliamentary committee for civil integration, which had been in existence for only 18 months, had begun to review that issue. The Committee maintained close relations with NGOs working for minority rights and with the minorities themselves in order to better assess the problems faced by national minorities. Human rights education

programmes had also been introduced, in particular for civil servants, and those programmes should certainly be further developed in the future. The Ombudsman for human rights was also involved in promoting awareness and organized regular awareness campaigns on the issues of racism and xenophobia.

19. In response to questions from Mr. Thornberry on the availability of translators and interpreters to help members of minorities in their dealings with the administration, he said that those persons were often assisted by individuals who spoke Georgian better than they did. On the other hand, it was often difficult to communicate in writing with the State central authorities in any language other than the official language and, in such cases, the requesting party was always responsible for translating any correspondence.

20. In response to a question from Mr. Diaconu on the definition of substantial violations of human rights in the Georgian Criminal Code, he said that generally speaking, it was left to the court concerned to define what "substantial" meant, but recognized that the text should probably be amended.

21. Mr. KAVADZE (Georgia) recalled that a joint United Nations-OSCE Office had been opened in Abkhazia in 1995 to monitor the observance of human rights in the region. He recalled that as a result of the ethnic and political violence in Abkhazia in 1992 and 1993, over 200,000 ethnic Georgians had been expelled. The United Nations-OSCE Office had opened a branch in the western province of Abkhazia, but for security reasons its staff could not move about freely. The efforts of the international community had not managed to resolve the conflict and serious ethnically motivated human rights violations were still occurring. The Government was currently engaged in high-level negotiations to reach an agreement with the separatist organization responsible for the disturbances, and the issue of respect for human rights loomed large in the talks.

22. Mr. RECHETOV welcomed the quality and frankness of the delegation's replies and the detailed information it had supplied. He recalled that in 1996 the Committee had adopted its general recommendation XXI, in which it gave its interpretation of the right to self-determination, an issue of the highest importance for Georgia. In that recommendation, the Committee expressed the view that international law had not recognized a general right of peoples unilaterally to declare secession from a State.

23. Mr. ABOUL-NASR observed that the State party had an obligation to implement article 4 of the Convention by incorporating the necessary provisions in its Criminal Code. The State party was certainly free not to make a declaration under article 14 of the Convention, but he nevertheless strongly encouraged it to review its position on the matter. Also, he would like to know why Stalin, himself a Georgian, had had Georgians deported to Siberia in the 1940s.

24. Ms. BERIDZE (Georgia) said that Stalin had had certain views on Turkey at that period and that he had deported Georgians whom he suspected of being pro-Turkish.

25. Mr. FALL (Country Rapporteur) welcomed the detailed replies given by the delegation and the frank, constructive dialogue that had begun. He underscored the Committee's concern that the Government did not exercise control over all parts of the territory, especially in the

autonomous areas, which was an obstacle to the full implementation of the Convention. He expressed the hope that the State party would soon find a solution to the problem of refugees and displaced persons and he urged it to adopt legislation for the protection of minority rights.

26. He particularly welcomed the State party's expressed intention to bring its legislation into line with article 14 of the Convention. While noting the delegation's explanations concerning the declaration under article 14, he urged the State party to reconsider its position, especially since in other fields Georgia already followed a domestic procedure for the submission of communications and had already demonstrated its determination to institute a genuine democracy by ratifying the main international instruments. Lastly, he encouraged the State party to continue along the path it had taken and to submit its next report on time.

27. The CHAIRPERSON thanked the delegation for the fruitful dialogue it had begun with the Committee and said that the Committee had completed its consideration of the initial report of Georgia.

28. The delegation of Georgia withdrew.

Draft concluding observations of the.Committee concerning the fifteenth and sixteenth periodic reports of Iceland (continued) (CERD/C/58/Misc.16/Rev.2, document distributed at the meeting in English only)

Paragraphs 1-11

29. Paragraphs 1-11 were adopted.

Paragraph 12

30. The CHAIRPERSON, summing up an exchange of views between the members of the Committee and Mr. Lechuga Hevia (Country Rapporteur), said he took it that the Committee decided to delete the reference to courts in the first sentence of paragraph 12, because complaints were submitted only to the police and not to the courts; and to tone down the wording by taking note of the small number, rather than the lack of, recorded complaints of racial discrimination.

31. Paragraph 12, as amended, was adopted.

Paragraph 13

32. The CHAIRPERSON said he took it that the Committee wished to delete the reference in the first sentence to the fact that several years of residence were a prerequisite for the granting of citizenship, because such a prerequisite was not unique to Iceland.

33. Paragraph 13, as amended, was adopted.

Paragraph 14

34. Mr. BOSSUYT proposed deleting the word "again" in the first sentence.

34 bis. Paragraph 14, as amended, was adopted.

Paragraph 15

35. Mr. ABOUL-NASR said that the paragraph was unclear and should be redrafted if it was retained.

36. After an exchange of views in which Mr. RECHETOV, Mr. LECHUGA HEVIA and Mr. FALL took part, the CHAIRPERSON suggested that the paragraph should be deleted.

37. Paragraph 15 was deleted.

Paragraph 16

38. Mr. DIACONU proposed deleting the final clause of the paragraph and concluding with the words "States parties". There was no reason to recommend that the Government of Iceland should submit its instrument of ratification because no such recommendation was made to other States parties.

39. After an exchange of views, the CHAIRPERSON said it appeared that the majority of the members of the Committee supported Mr. Diaconu's proposal.

40. Paragraph 16, as amended, was adopted.

Paragraph 17

41. Paragraph 17 was adopted.

Paragraph 18

42. Mr. BOSSUYT proposed that the date of 4 January 2002 should be replaced by 4 January 2004, in view of his proposal at an earlier meeting that the scheduled date for the submission of a subsequent periodic report that would otherwise come very soon after the consideration of the previous report should be extended by two years.

43. The CHAIRPERSON suggested that the date of 4 January 2002 should for the moment be bracketed and that the secretariat should subsequently change it accordingly if the Committee approved the procedure for submission of reports proposed by Mr. Bossuyt in document CERD/C/58/Misc.12/Rev.2.

44. Paragraph 18 was provisionally adopted, subject to the possible change of date.

45. The draft concluding observations of the Committee concerning the fifteenth and sixteenth periodic reports of Iceland as a whole, as amended and subject to agreed drafting changes, were adopted.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 7) (continued)

Proposal on reporting procedure (CERD/C/58/Misc.12/Rev.2, document distributed at the meeting in English only)

46. Mr. BOSSUYT read out a revised version of his proposal to allow the Committee, in cases where the period between the date of the consideration of the latest periodic report of a State party and the scheduled date for submission of its next periodic report was less than two years, to suggest in its concluding observations that the State party, if it so wished, could submit the latter report in conjunction with the periodic report to be submitted on the following date fixed in accordance with article 9.

47. Mr. PILLAI suggested making the text to be adopted by the Committee more explicit, by specifying why the new procedure was being applied. The Committee and the State party concerned should be able to decide together which period would be covered by the subsequent periodic report.

48. The CHAIRPERSON said that it was not appropriate to stipulate that the Committee and the State party would together determine the date of submission of a future periodic report, because such a decision should be made by the Committee alone.

49. Mr. ABOUL-NASR questioned whether it was necessary to adopt a formal decision on the matter. Could the Committee not simply follow the procedure proposed by Mr. Bossuyt for a certain time and then assess how it had worked?

50. Mr. BOSSUYT agreed that his proposal could for the time being remain a guideline.

51. The CHAIRPERSON said he took it that the Committee approved Mr. Bossuyt's proposal, on the understanding that the proposed reporting procedure would be applied to all States and that, if it did not prove satisfactory after two or three years, it would be changed.

52. It was so decided.

53. Mr. BOSSUYT said that, in view of the decision just taken, paragraph 18 of the concluding observations concerning Iceland (CERD/C/58/Misc.16/Rev.2) should be amended by the secretariat to substitute the date of 4 January 2004 for 4 January 2002.

54. The CHAIRPERSON said he took it that the Committee approved the proposal.

55. It was so decided.

The meeting rose at 12.50 p.m.